

Remarks:

1. Rejections.

Applicants acknowledge with appreciation that the Examiner has withdrawn all of the previous claim rejections. Nevertheless, claim 15 now stands rejected under 35 U.S.C. § 112, ¶ 2, as allegedly indefinite because it refers to the trademarked product. Further, claims 13-20 now stand rejected under 35 U.S.C. § 103(a), as allegedly rendered obvious by U.S. Patent No. 6,156,064 to Chouinard in view of Thoratec Products Information. Applicants are cancelling claim 15, without prejudice, and the rejection of claim 15 now is moot. Applicants respectfully disagree with the remaining rejections.

2. Chouinard in view of Thoratec Products Information.

As noted above, claims 13-20 stand rejected as allegedly rendered obvious by Chouinard in view of Thoratec Products Information. Specifically, the Office Action alleges that “Chouinard discloses an impermeable vascular graft comprising: a PET (polyethyleneterephthalate) knit core coated and embedded with polymer.” Office Action, Page 3, Lines 15-17 (citing Chouinard, Column 8, Line 41, through Column 10, Line 2). Further, the Office Action contends that the Thoratec Products Information discloses or suggests the use of Thoralon® product or the like. Applicants respectfully disagree.

In order for the Office Action to establish a prima facie case of obviousness, at least three criteria must be met. First, there must be some suggestion or motivation, either in the the combined references or in the knowledge generally available to one of ordinary skill in the art, to combine the cited references, in the manner proposed by the Office Action. Second, the prior art references must disclose or suggest all the claim limitations. Third, there must be a reasonable expectation of success. MPEP 2143. Applicants maintain that the Office Action has failed to demonstrate that the combined references disclose or suggest all the claim limitations of pending claims 13, 14, and 16-20.

Initially, Applicants note that Chouinard does not disclose a vascular graft. As Chouinard explains, “[t]he stent-graft-membrane of the present invention has at least three layers The three layers include a structural stent layer, a graft layer and a membrane layer. The

three layers may be formed in different combinations of layers.” Chouinard, Column 2, Lines 18-23 (emphasis added). Chouinard states that its graft layer is permeable. Specifically, the “[p]ermeability [of the graft layer] ranges from about 50 cc/cm²/min. to about 5000 cc/cm²/min. at 120 mmHg differential pressure.” Id. at Column 8, Lines 64-66. Chouinard further explains that the membrane layer is designed to “limit permeability” and that the “[p]ermeability of the membrane [layer] ranges from about 0 cc/cm²/min. to about 100 cc/cm²/min. at 120 mmHg differential pressure.” Id. at Column 9, Lines 8 and 14-16. Nevertheless, Chouinard states that

[a] membrane may also be formed by impregnating a porous graft with a polymer. The polymer becomes integrated in the graft interstices, resulting in a graft-membrane which has substantially lower permeability than the graft starting material.

Id. at Column 9, Lines 30-34 (emphasis added); see also Chouinard, Claims 29 and 36.. Applicants contend that “substantially lower permeability” is not the same thing as *impermeability*, as required by each of your pending claims 13, 14, and 16-20. Although a permeability of “about 0 cc/cm²/min,” is very low, Chouinard does not describe the combination of the graft and membrane layer as “impermeable.” Moreover, according to Chouinard, “[a]fter the stent-graft-membrane is formed, the stent, graft and membrane composite is substantially impermeable.” Id. at Column 9, Lines 48-50 (emphasis added). Thus, while Applicants’ claims 13, 14, and 16 each describe a core zone and first non-porous coating as “impermeable,” Chouinard describes a composite comprising the stent, graft, and membrane is only “substantially impermeable.”

In view of the quoted text from Chouinard, Applicants maintain (1) that Chouinard does not disclose or suggest that a membrane impregnated graft is “impermeable,” as described in claims 13, 14, and 16-20; and (2) that even its “stent, graft and membrane composite is [only] substantially impermeable.” To the extent that the Chouinard discloses or suggests that “impermeability” is desirable, the Office Action fails to demonstrate any suggest to combine Chouinard with the Thoratec Product Information to achieve such impermeability by a combination of elements, as described in Applicants’ claims. Therefore, Applicants maintain that the Office Action fails to establish a prima facie case for obviousness and respectfully request that the Examiner to with draw the obviousness rejections to claims 13, 14, and 16.

Claims 50 and 51 depend from claim 13, claims 52 and 53 depend from claim 14, and claim 16-20 and claims 54 and 55 depend from claim 16. For the reasons set forth above, Applicants maintain that claims 13, 14, and 16 are distinguishable over the cited references. "If an independent claim is non-obvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious." MPEP 2143.03 (citations omitted). Therefore, Applicants also respectfully request that the Examiner withdraw the rejection to claim 17-20 and claims 50-55.

3. New Limitations of Claims 50-55.

Claims 50, 52, and 54 describe grafts in which "said first coating has a thickness of about 12 μ m;" and claims 51, 53, and 55 describe grafts in which "said first coating has a thickness in a range of about 4 μ m to about 5 μ m." Chouinard, however, states that "[t]he membrane layer may have a thickness between about 0.001 [25.4 μ m] and about 0.010 inch [254 μ m]." Chouinard, Column 9, Lines 28-29. Thus, Chouinard in view of Thoratec Product Information fails to disclose or suggest all the limitations of these new claims, and Chouinard in view of Thoratec Product Information would not establish a prima facie case for obviousness. Therefore, Applicants respectfully request that the Examiner also find claims 50-55 allowable over the cited references.

Conclusion:

Applicants respectfully submit that this application, as amended, is in condition for allowance, and such disposition is earnestly solicited. If the Examiner believes that an interview with Applicants' representatives, either in person or by telephone, would expedite prosecution of this application, we would welcome such an opportunity.

Applicants are enclosing a check including the amount of \$420 covering the fee for a two-month extension (Large Entity); no claim fees are due as a result of the amendments to the pending claims. Nevertheless, in the event of any variance between the fees determined by

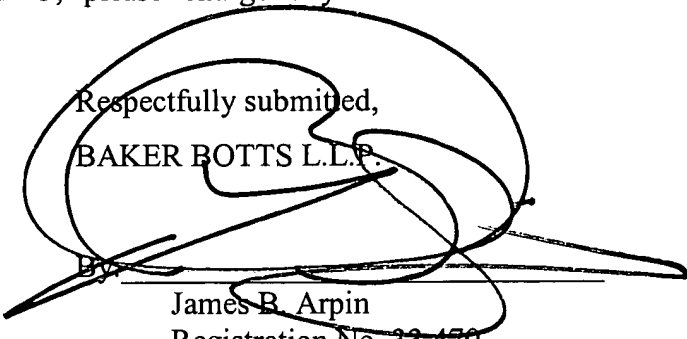
Applicants and those determined by the PTO, please charge any such variance to the undersigned's Deposit Account No. 02-0375.

Respectfully submitted,
BAKER BOTTS L.L.P.

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